



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 97-3-32
Served 3/27/97

Issued by the Department of Transportation
on the 21st day of March, 1977

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Agreement Adopted by the Tariff           :
Coordinating Conferences of the           :      Docket OST-96-2026
International Air Transport Association    :      R-1 and R-2
relating to TC3 Fares                     :
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ORDER

Various members of the International Air Transport Association (IATA) have filed agreements with the Department under section 41309 of Title 49 of the United States Code (U.S.C.) and Part 303 of the Department's regulations. The agreements were adopted at the TC3 Passenger Tariff Coordinating Conference held in Singapore September 18-28, 1996. 1/

The agreement adjusts normal (first, intermediate, and economy class) one-way fares and round trip excursion fares from Hong Kong to Pago Pago and Guam, and normal fares from Guam to Hong Kong, to reflect levels currently in effect in carrier tariffs filed with the governments of Hong Kong and the United States. Selected excursion fares between Hong Kong and Guam were similarly adjusted to reflect market levels on file with the respective governments.

We will approve the agreement. Based on our review of the information submitted and other relevant material, we conclude that the agreement, as conditioned, will not result in fares that are unlawful or injurious to competition in the markets at issue.

Our approval of the changes to premium and promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

There is no direct service between Hong Kong and Pago Pago. For this market we will not impose our standard conditions holding the

1/ IATA memoranda PTC3 0026 and PTC3 0031, filed with the Department on December 17, 1996.

proposed normal economy fares to regulatory ceilings based on the Standard Foreign Fare Level (SFFL). ^{2/} Our review further indicates that the agreement does not change direct-service restricted economy fares between Guam and Hong Kong. Nonetheless, for administrative purposes, we will require that each carrier, when filing tariffs

implementing the agreement, provide a comparison of its proposed restricted economy fares against the Department's SFFL base levels for this market.

Acting under Title 49 of the United States Code, and particularly sections 40101, 40103, 41300, and 41309:

1. We do not find that the resolutions set forth below, and which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that each IATA carrier submit, at the time of filing and for comparative purposes, its SFFL base fares, proposed restricted economy fares, and the percentages by which its proposed restricted economy fares differ from the SFFL base levels for each market for which it files revised restricted economy fares;

Docket OST-96-2026

PTC3 0026, TC3 Within South East Asia (U.S. Territories)

PTC3 0031, TC3 Between South East Asia And South West Pacific (U.S. Territories)

<u>Resolution</u>	<u>Description</u>
R-1; 002i	Special Amending Resolution Within South East Asia (U.S. Territories)(New)
R-2; 002f	Special Amending Resolution Between South East Asia And South West Pacific (U.S. Territories)(New)

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Anti-trust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under the Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in

^{2/} See, for example, Orders 89-4-42, April 18, 1989, and 88-4-5, April 1, 1988.

violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under the Code. Consequently, we will grant antitrust immunity to the agreement in Dockets OST-96-2026, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in Docket OST-96-2026, as set forth in finding paragraph one above, subject to the conditions imposed therein.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

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